

ORIGINAL

FILED

September 17 2009

IN THE SUPREME COURT OF THE STATE OF MONTANA

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

No.

STATE OF MONTANA,

Plaintiff and Appellee,

v.

NIEL KELLY MULLARKEY,

Defendant and Appellant.

FILED

SEP 17 2009

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

NOTICE OF APPEAL

Notice is hereby given that Niel Kelly Mullarkey, the Appellant above-named and who is the Defendant in the cause of action filed in the First Judicial District, in and for the County of Lewis and Clark, as Cause No. CDC 2008-136, hereby appeals to the Supreme Court of the State of Montana from the final judgment or order entered in such action on the 20th day of July, 2009.

THE APPELLANT FURTHER CERTIFIES:

1. That this appeal is not subject to the mediation process required by Mont. R. App. P. 7.
2. That this appeal is not an appeal from an order certified as final under Mont. R. Civ. P. 54(b). If this is such an appeal, a true copy of the District Court's certification order is attached hereto as Exhibit "A."

NOTICE OF APPEAL


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3. That the notice required by Mont. R. App. P. 27 will be given, within 11 days of the date hereof, to the Supreme Court and to the Montana Attorney General with respect to a challenge to the constitutionality of any act of the Montana Legislature if applicable to this appeal.

4. That all relevant transcripts of the proceedings in this cause have been ordered from the court reporter contemporaneously with the filing of this notice of appeal. If all available transcripts have not been ordered, that Appellant has complied with the provisions of Mont. R. App. P. 8(3) contemporaneously with the filing of this notice of appeal.

Respectfully submitted this 17th day of September, 2009.

OFFICE OF THE STATE PUBLIC DEFENDER
Appellate Defender Office
P.O. Box 200145
Helena, MT 59620-0145

By: 
JIM WHEELIS
Chief Appellate Defender

CERTIFICATE OF SERVICE

I hereby certify that I have filed a true and accurate copy of the foregoing Notice of Appeal with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing Notice of Appeal upon the Clerk of the District Court, each attorney of record, and each party not represented by an attorney in the above-referenced District Court action, as follows:

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DATED: 9/17/2009 Sarah L. Braden